

REMARKS

Claims 2-35 are pending in the application.

Claims 2-35 have been rejected.

Claims 2-4, 8, 16, 18, 25, 27 and 29 have been amended, as set forth herein.

Reconsideration of the claims is respectfully requested.

II. REJECTION UNDER 35 U.S.C. § 102

Claims 2-4, 7, 9, 16, 18-20, 24-27 and 29 were rejected under 35 U.S.C. § 102(e)¹ as being anticipated by U.S. Patent No. 6,046,762 to *Sonesh et al.* The rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Independent claims 16, 25, 27 and 29 each recite that if the attendant availability parameter is not met, at least one data information message containing audio/softkey option labels is sent to the particular remote telephone station (initiating the call) via the packet-based

¹ The Office Action states that the rejection is based on 35 U.S.C. § 102(b). Paper No. 2, page 2. However, since the issue date of *Sonesh et al.* is later than the filing date of the subject application, Applicant assumes that a rejection under 35 U.S.C. § 102(e) was intended.

network. In an exemplary embodiment, a waiting screen message including softkey option labels (identifying keys which may be pressed to activate, for example, a music choice operation, an alert request operation, etc.) are sent along with waiting parameters (e.g., the caller's position within a priority queue) to the call-initiating remote telephone if no attendant is currently available to answer the call. Specification, Figure 6 (step 138), page 23, lines 16-30. Such a feature is not shown or suggested by the cited reference. *Sonesh et al* does not disclose that audio or softkey option labels are sent to the initiating telephone within a data message if an attendant is not available.

Independent claim 2 recites that a format for the data information message sent when no attendant is available is determined from the capabilities of the call-initiating telephone. Such a feature is not shown or suggested by the cited reference. The cited portion of *Sonesh et al* teaches that specialized connection software is required to communicate with the call center, and that a determination is made of whether the connection software is present and updated on the initiating computer:

The caller's computer communicates with the call center via connection software, configured as a browser helper module. Step 635 checks whether this connection software exists on the caller's computer and whether it is updated. If not, step 645 involves downloading this software or an update, to the caller's computer. If the software exists at step 635 or after it is downloaded at step 645, step 640 checks for the availability of an agent in the appropriate queue.

Sonesh et al, column 10, lines 50-58. However, *Sonesh et al* does not suggest that the format of any information supplied via the call connection is conformed to the initiating computer's capabilities; on the contrary, *Sonesh et al* teaches conforming the initiating computer's

capabilities to the format of any information supplied by the call connection, by downloading or updating software to the initiating computer.

Independent claim 24 recites monitoring for receipt of an attendant request message to enable connection to an attendant while browsing data information. In an exemplary embodiment, the remote telephone may simply employ a browser to access data information made available in response to a call without being queued for an attendant, then initiate an attendant request while viewing the data information. Such a feature is not shown or suggested by the cited reference. The cited portion of *Sonesh et al* teaches allowing a user to view a web site while holding for an attendant, but only after initiating a call requesting connection to an attendant. *Sonesh et al* does not suggest allow the caller to browse data information independent of a request for connection to an attendant, then request connection to an attendant during the browsing session.

disagree
Sonesh does
teach w/ 10
lines 34-36

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102 rejection of Claims 2-4, 7, 9, 16, 18-20, 24-27 and 29.

II. REJECTION UNDER 35 U.S.C. § 103

Claims 5-6, 30-31 and 34-35 were rejected under 35 U.S.C. § 103 as being unpatentable over *Sonesh et al* in view of U.S. Patent No. 5,991,394² to *Dezonno et al*. Claims 8, 10-12,

² The Office Action actually cites U.S. Patent No. 6,295,354 to *Dozonno*, but also describes that reference as "not relied upon." Paper No. 2, pages 6 and 11. Based on this conflicting characterization and the lack of relevance of the disclosure within *Dozonno* '354 at the column and line numbers particularly cited in the Office Action (column 6, lines 51-62; see Paper No. 2 at page 7), Applicant assumes that reference to U.S. Patent No. 5,991,394 to

14-15, 17 and 23 were rejected under 35 U.S.C. § 103 as being unpatentable over *Sonesh et al* in view of U.S. Patent No. 5,884,032 to *Bateman et al*. Claim 28 was rejected under 35 U.S.C. § 103 as being unpatentable over *Sonesh et al* in view of U.S. Patent No. 6,301,354 to *Walker et al*. Claims 13, 21-22 and 32-33 were rejected under 35 U.S.C. § 103 as being unpatentable over *Sonesh et al*. The rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

Dezonno et al was intended.

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

yes
Baleman - wlb
Suresh - wlb
3-4
52-58 Independent claims 8, 30 and 34-35 each recite that the call reception logic monitors for receipt of an alert request activation which causes an alert message to be sent to the call-initiating remote telephone when an attendant becomes available. Such a feature is not shown or suggested by the cited references. The cited portion of *Dezanno et al* relates to a timer for dialing calls at a specific, desired time, coupled with detection of whether a human (rather than an answering machine or the like) answers the call, and connection of the call to an agent when a human answers the call:

The telephone computer 114 of the telephone switching system 112 receives the call request, detects the time to call 306 and converts the call request into a predictive dial request command, which is formatted for proper receipt by the ACD 116. The telephone computer 114 may detect the time to call 306 in the call request and delay transmitting the call request to the ACD 116 until the time to call. The telephone computer 114 comprises timer 124, for detecting the time

tone
Beep
ring
tone

to call 306 in the call request. The timer 124 may be implemented by software. The ACD 116 would then attempt to dial the telephone number 304 substantially immediately upon receipt of the dial request command.

Alternatively, the telephone computer 114 may transmit the dial request command, which includes the time to call 306 information, substantially immediately upon receipt of the call request. The ACD 116 would then detect the time to call 306 and delay the outbound dialing of the telephone number 304 until that time. Either the ACD 116 or the telephone computer 114 may therefore control when the telephone number 304 is dialed based on the time to call 306.

Preferably, the ACD 116 uses predictive outbound dialing to call the computer user telephone 120. Systems for providing predictive outbound dialing from the ACD 116 are well known in the art. One such system is described in commonly assigned U.S. Pat. No. 4,881,261, the disclosure of which is hereby incorporated by reference.

The telephone computer 114 sends the dial request command to the ACD 116 for call processing. A dialer 126 in the ACD 116, which is preferably software based, then places an outbound telephone call to the computer user telephone 120 in a well known manner. Answer detector 128 in FIG. 1 in the ACD 116 detects when the computer user 102 answers the call, as distinguished from an automated answering machine, a busy signal or no answer. One such means for detecting whether a human answers a telephone call is disclosed in commonly assigned U.S. Pat. No. 4,809,272, the disclosure of which is hereby incorporated by reference.

When the computer user 102 answers the telephone, the ACD 116 connects the computer user telephone 120 to the agent 104 through the agent telephone 118. Various methods are well known in the art for selecting an agent to connect the telephone call. Since the philosophy of such methods are not important to the present invention beyond connecting the telephone call to the agent 104, details will not be further given herein. Those desiring additional information regarding methods and systems for selecting agents are referred to U.S. Pat. No. 5,206,903 which is incorporated herein by reference.

Dezonno et al, column 4, line 51 through column 5, line 31. *Dezonno et al* thus teaches completing a call connection (rather than aborting the call and redialing later) when an initiated call is answered by a human. However, *Dezonno et al* does not teach or suggest allowing a caller to selectively request an alert while holding for an available attendant after placing a call,

with the alert being sent when an attendant becomes available to handle the call which is holding.

Claim 13 recites that an alert request includes a volume request to ensure that the ring volume at the remote telephone is sufficiently high. Such a feature is not shown or suggested by any cited reference.

Bademan col 6,
55, cust. answe
Phone =>
Ring volume
has to be suff.
high.

Claims 21-22 recite sending a portion of data being browsed to an attendant (or, equivalently, initiating an identical browsing session for the attendant) when an available attendant answers a call initiated by a remote telephone and holding for an available attendant. In an exemplary embodiment, the information being viewed at the remote telephone is made available to the answering attendant so that both the calling party and the attendant may concurrently view the same data. Such a feature is not shown or suggested by any of the cited references.

Bademan
col 6, 55-
58

Independent claim 30 further recites storing a number for the remote telephone and disconnecting a call in response to an alert request, then calling the remote telephone back when an attendant becomes available. Such a feature is not shown or suggested by the cited references. As noted above, *Dezanno et al* teaches timed dialing and completion of a call connection upon detection of a human answering a dialed called, but not alert requests for notifying a calling party with an established call connection on hold of attendant availability. *Denozzo et al* also does not teach or suggest disconnecting an established call connection and reinitiating the connection at the called party's end when an attendant becomes available.

Independent claims 30 and 34-35 each recite monitoring for an attendant ready signal.

In an exemplary embodiment, when a remote telephone holding on an established call connection for an available attendant requests an alert upon an attendant becoming available, the alert may be triggered based on an attendant initiating an attendant ready signal (e.g., by pressing "#"). Such a feature is not shown or suggested by the cited references. As noted above, *Dezanno et al* teaches timed dialing and completion of an attempted call if answered by a human, but does not teach alerting a calling party that is holding on an established call connection when an attendant becomes available. *Denozzo et al* also fails to teach or suggest enabling the called party to trigger such an alert via an attendant ready signal.

Claims 32 and 35 each recite periodically sending a recorded message indicating how to initiate an alert when an attendant becomes available. In an exemplary embodiment, when a remote telephone requests an alert while holding on an established call connection for an available attendant, a message instructing an answering attendant how to initiate the alert (e.g., instructing the answering attendant to press "#") is repeatedly played. Such a feature is not shown or suggested by the cited references.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejections of Claims 5-6, 8, 10-12, 13-15, 17, 21-23, 28, and 30-35.

Search vol 11,
3-4 alert
caller by connect
to attendant
Basteman
vol 6, 52-58
cust. answer
phone ought to
have info

not in
claim

not in claim

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

AMENDMENTS WITH MARKINGS TO SHOW CHANGES MADE

Claims 2-4, 8, 16, 18, 25, 27 and 29 were amended herein as follows:

1 2. (amended) An [ACD controller according to claim 1]Automatic Call Distribution (ACD)
2 controller arranged to be coupled through a packet-based network to a plurality of remote
3 telephone stations and one or more attendant telephone stations; the ACD controller comprising
4 call reception logic that controls the establishment of telephone sessions between the remote
5 telephone stations and the attendant telephone stations;

6 wherein the call reception logic operates to receive call initiation signals from a
7 particular one of the remote telephone stations; to monitor if an attendant availability parameter
8 is met; if the attendant availability parameter is not met, to send at least one data information
9 message to the particular remote telephone station via the packet-based network; and, if the
10 attendant availability parameter is met, to establish an audio channel between the particular
11 remote telephone station and a particular one of the attendant telephone stations, wherein the
12 call reception logic further operates to query the capabilities of the particular remote telephone
13 station prior to sending the data information message, a format for the data information message
14 being determined based upon the capabilities of the particular remote telephone station.

1 3. (amended) An ACD controller according to claim [1]2, wherein the packet-based network
2 is an Internet Protocol (IP) network and the data information message is transmitted within an
3 IP packet.

1 4. (amended) An ACD controller according to claim [1]2, wherein the call reception logic
2 further operates to determine a waiting parameter to be presented to a user at the particular
3 remote telephone station, the data information message comprising said waiting parameter.

1 8. (amended) An [ACD controller according to claim 1]Automatic Call Distribution (ACD)
2 controller arranged to be coupled through a packet-based network to a plurality of remote
3 telephone stations and one or more attendant telephone stations, the ACD controller comprising
4 call reception logic that controls the establishment of telephone sessions between the remote
5 telephone stations and the attendant telephone stations;

6 wherein the call reception logic operates to receive call initiation signals from a
7 particular one of the remote telephone stations; to monitor if an attendant availability parameter
8 is met; if the attendant availability parameter is not met, to send at least one data information
9 message to the particular remote telephone station via the packet-based network; and, if the
10 attendant availability parameter is met, to establish an audio channel between the particular
11 remote telephone station and a particular one of the attendant telephone stations, wherein the
12 data information message comprises an alert request option; and

13 wherein the call reception logic further operates to monitor for receipt of an alert request
14 activation message from the particular remote telephone station in response to the alert request
15 option; and, if the call reception logic receives the alert request activation message from the
16 particular remote telephone station, to send an alert on message to the particular remote
17 telephone station when the attendant availability parameter is met.

1 16. (amended) An [ACD controller according to claim 1] Automatic Call Distribution (ACD)
2 controller arranged to be coupled through a packet-based network to a plurality of remote
3 telephone stations and one or more attendant telephone stations, the ACD controller comprising
4 call reception logic that controls the establishment of telephone sessions between the remote
5 telephone stations and the attendant telephone stations;

6 wherein the call reception logic operates to receive call initiation signals from a
7 particular one of the remote telephone stations; to monitor if an attendant availability parameter
8 is met; if the attendant availability parameter is not met, to send at least one data information
9 message to the particular remote telephone station via the packet-based network; and, if the
10 attendant availability parameter is met, to establish an audio channel between the particular
11 remote telephone station and a particular one of the attendant telephone stations, wherein [the]
12 the data information message comprises a plurality of audio options; and

13 wherein the call reception logic further operates to monitor for receipt of one of a
14 plurality of audio option activation messages from the particular remote telephone station, each
15 of the audio option activation messages corresponding to a selection of a particular one of the
16 audio options; and, if the call reception logic receives one of the audio option activation
17 messages from the particular remote telephone station, to send audio signals associated with the
18 received audio option activation message to the particular remote telephone station.

1 18. (amended) An ACD controller according to claim [1]16, wherein the data information
2 message comprises a browser request option; and
3 wherein the call reception logic further operates to monitor for receipt of a browser
4 request activation message from the particular remote telephone station in response to the
5 browser request option; and, if the call reception logic receives a browser request activation
6 message from the particular remote telephone station, to initiate a browser session with the
7 particular remote telephone station such that the particular remote telephone station can access
8 data information within a browser format.

1 25. (amended) An Automatic Call Distribution (ACD) system comprising an ACD controller
2 and one or more attendant telephone stations arranged to be coupled to the ACD controller, each
3 of the ACD controller and the attendant telephone stations arranged to be coupled through a
4 packet-based network to a plurality of remote telephone stations, the ACD controller comprising
5 call reception logic that controls the establishment of telephone sessions between the remote
6 telephone stations and the attendant telephone stations;

7 wherein the call reception logic operates to receive call initiation signals from a
8 particular one of the remote telephone stations; to monitor if an attendant availability parameter
9 is met; if the attendant availability parameter is not met, to send at least one data information
10 message including softkey option labels to the particular remote telephone station via the
11 packet-based network; and, if the attendant availability parameter is met, to establish an audio
12 channel between the particular remote telephone station and a particular one of the attendant
13 telephone stations.

1 27. (amended) A telephone system comprising a packet-based network, an Automatic Call
2 Distribution (ACD) controller, one or more attendant telephone stations, and one or more
3 remote telephone stations, each of the attendant telephone stations and remote telephone stations
4 being arranged to be coupled through a packet-based network to ACD controller, the ACD
5 controller comprising call reception logic that controls the establishment of telephone sessions
6 between the remote telephone stations and the attendant telephone stations;

7 wherein the call reception logic operates to receive call initiation signals from a
8 particular one of the remote telephone stations; to monitor if an attendant availability parameter
9 is met; if the attendant availability parameter is not met, to send at least one data information
10 message to the particular remote telephone station via the packet-based network, the at least one
11 data information message containing option labels for selection of one or more of a music
12 choice operation, an alert request operation, and a browser request operation; and, if the
13 attendant availability parameter is met, to establish an audio channel between the particular
14 remote telephone station and a particular one of the attendant telephone stations.

1 29. (amended) Within an Automatic Call Distribution (ACD) controller, a method of
2 establishing a telephone session between a remote telephone station and an attendant telephone
3 station via a packet-based network, the method comprising:

4 receiving call initiation signals from the remote telephone station;

5 sending at least one data information message containing softkey option labels to the
6 remote telephone station via the packet-based network;

7 monitoring if an attendant availability parameter is met;

8 if the attendant availability parameter is not met, sending at least one data information
9 message to the particular remote telephone station via the packet-based network; and

10 if the attendant availability parameter is met, to establish an audio channel between the
11 particular remote telephone station and a particular one of the attendant telephone stations.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at dvenglarik@davismunck.com.


The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date:

8-16-02


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